

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 05-2 ERIE

KEITH ALLEN PROCTOR

CHANGE OF PLEA

Proceedings held before the HONORABLE  
SEAN J. McLAUGHLIN, U.S. District Judge,  
in Courtroom C, U.S. Courthouse, Erie,  
Pennsylvania, on Thursday, March 9, 2006.

APPEARANCES:

CHRISTIAN A. TRABOLD, Assistant United States  
Attorney, appearing on behalf of the Government.

THOMAS W. PATTON, Assistant Federal Public

Ronald J. Bench, RMR - Official Court Reporter

2

1 PROCEEDINGS

2

3 (Whereupon, the Change of Plea proceedings began at  
4 11:00 a.m., on Thursday, March 9, 2006, in Courtroom C.)

5

6 THE COURT: Mr. Proctor, I'm informed that you wish  
7 to change the plea that you previously entered at Count One of  
8 Indictment No. 05-2 Erie to a plea of guilty, is that correct,  
9 sir?

10 THE DEFENDANT: Yes.

11 THE COURT: Before accepting your guilty plea, there  
12 are a number of questions I will ask you to make certain that  
13 it is a valid plea. If you do not understand any question,

14 please tell me and I will explain it to you. If at any time  
15 you wish to consult with your attorney, please tell me that and  
16 I will give you the opportunity to consult. I give you these  
17 instructions because it is essential to a valid plea that you  
18 understand every question before you answer it.

19 Would you please administer the oath.

20 DEPUTY CLERK: Please raise your right hand.

21 (Whereupon, the Defendant, KEITH ALLEN PROCTOR, was  
22 sworn.)

23 THE COURT: Do you understand that now that you have  
24 been sworn, your answers to my questions are subject to the  
25 penalties of perjury or of making a false statement if you do

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1 not answer truthfully?

2 THE DEFENDANT: Yes.

3 THE COURT: Would you please tell me your full name?

4 THE DEFENDANT: Keith Allen Proctor.

5 THE COURT: How old are you, sir?

6 THE DEFENDANT: Thirty-five.

7 THE COURT: How far did you go in school?

8 THE DEFENDANT: 8th grade.

9 THE COURT: Are you able to communicate in English?

10 THE DEFENDANT: Yes.

11 THE COURT: Has that been your experience, Mr.

12 Patton?

13 MR. PATTON: Yes, sir.

14 THE COURT: Have you taken any drugs or medication  
15 or have you drunk any alcoholic beverages in the past 24 hours?

16 THE DEFENDANT: Just regular medicine.

17 MR. PATTON: Your Honor, Mr. Proctor is on several  
18 medications for his physical ailments, also some for mental  
19 health.

20 THE COURT: Could you rattle those medications off?

21 MR. PATTON: The first is Strattera, which is for  
22 attention deficit, hyperactivity disorder. Norvasc, which is a  
23 high blood pressure medication. Lipitor, for high cholesterol.  
24 HCTZ, which is another blood pressure medication. Ranitidine,  
25 which is a medication for acid reflux disorder. Effexor, which

1 is a mood stabilizer, and Trazadone.

2 THE COURT: Now, you're taking all of those

3 medications now, is that right, Mr. Proctor?

4 THE DEFENDANT: Yes.

5 THE COURT: Even though you're taking all those

6 medications now, are you still able to think clearly and do you

7 understand what's happening here today?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And I take it since you're

10 taking all those medications, you're presently under the care

11 of a physician or a psychiatrist?

12 THE DEFENDANT: Yes, both.

13 THE COURT: Both. Have you recently been

14 hospitalized or treated for narcotic addiction?

15 THE DEFENDANT: No.

16 THE COURT: Do you understand what's happening here

17 today?

18 THE DEFENDANT: Yes.

19 THE COURT: Does either counsel have any doubt about

20 the competence of this defendant to plead guilty at this time,

21 Mr. Trabold?

22 MR. TRABOLD: No, your Honor.

23 THE COURT: Mr. Patton?

24 MR. PATTON: No, sir.

25 THE COURT: I find him competent to plead. Now, do

5

1 you have a lawyer with you here today?

2 THE DEFENDANT: Yes.

3 THE COURT: What is his name?

4 THE DEFENDANT: Tom Patton.

5 THE COURT: Have you had a sufficient opportunity to

6 discuss your case with him?

7 THE DEFENDANT: Yes.

8 THE COURT: And are you happy with the work that

9 he's done for you?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that if you continue

12 to plead not guilty and do not change your plea, you would have

13 the right to be assisted by an attorney at the trial of the

14 charge against you?

15 THE DEFENDANT: Yes.

16 THE COURT: And do you understand that if you did

17 not enter a guilty plea and if you qualified financially, you

18 would be entitled to be assisted by an attorney at no cost to  
19 you at every phase of the processing of these charges against  
20 you?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that if you did not  
23 plead guilty and that if there were a trial, under the  
24 Constitution and laws of the United States, you would be  
25 entitled to a speedy trial by a judge and jury on the charge?

6

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that if there were a  
3 trial, the government would be required to prove your guilt by  
4 competent evidence and beyond a reasonable doubt before you  
5 could be found to be guilty?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that if there were a  
8 trial, you would not have to prove that you were innocent?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that if there were a  
11 trial, the jury would have to be unanimous in order to find you

12 guilty of the charge against you?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that if there were a  
15 trial, you would have the right to participate in the selection  
16 of the jury; that you would have the right to strike or  
17 eliminate any prospective juror if it was demonstrated that the  
18 juror would be unable to render a fair and impartial verdict;  
19 and that you would have the right to strike or eliminate ten  
20 jurors from the jury and one alternate, without giving any  
21 reason at all for so doing?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if there were a  
24 trial, the witnesses for the government would have to come to  
25 court and they would have to testify in your presence?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that if there were a  
3 trial, your counsel could cross-examine the witnesses for the  
4 government, object to evidence offered by the government and  
5 then offer evidence on your behalf?



6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that if there were a  
8 trial, the government would have to pay witness fees to  
9 witnesses you wished to call on your behalf, if you qualified  
10 as being financially unable to pay such witness fees?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that if there were a  
13 trial, you would have the right to testify if you chose to?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that if there were a  
16 trial, you would have the right not to testify and that no  
17 inference or suggestion of guilt could be drawn from the fact  
18 that you did not testify?

19 THE DEFENDANT: Yes.

20 THE COURT: If you plead guilty and I accept your  
21 plea, do you understand that you will waive your right to a  
22 trial and the other rights which I have mentioned to you, that  
23 there will be no trial, and that I will enter a judgment of  
24 guilt and sentence you on the basis of your guilty plea after  
25 considering a presentence report?

1 THE DEFENDANT: Yes.

2 THE COURT: If you plead guilty, do you understand  
3 that you will also have to waive your right not to incriminate  
4 yourself, because I will ask you questions about what you did  
5 in order to satisfy myself that you are guilty as charged and  
6 that you will have to acknowledge your guilt?

7 THE DEFENDANT: Yes.

8 THE COURT: Now that I have mentioned your rights to  
9 you, do you still wish to plead guilty?

10 THE DEFENDANT: Yes.

11 THE COURT: What count is he pleading to?

12 MR. TRABOLD: All three counts, your Honor.

13 THE COURT: Have you received a copy of the  
14 Indictment naming you and have you discussed with your counsel  
15 the charges in the Indictment to which you are pleading guilty  
16 today?

17 THE DEFENDANT: Yes.

18 THE COURT: Have you carefully read each of the  
19 counts in the Indictment?

20 THE DEFENDANT: Yes.

21 THE COURT: And have you discussed those with your

22 counsel?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand the charges?

25 THE DEFENDANT: Yes.

9

1 THE COURT: Mr. Patton, have you discussed the

2 charges in the Indictment with your client?

3 MR. PATTON: I have.

4 THE COURT: Are you satisfied that he understands

5 the Indictment?

6 MR. PATTON: Yes, sir.

7 THE COURT: Do you waive a reading of the Indictment

8 in the interest of time?

9 MR. PATTON: Yes, sir.

10 THE COURT: All right. Now, do you understand that

11 as to Count One, in order for the crime of transportation of

12 material depicting the sexual exploitation of a minor, in

13 violation of Title 18, United States Code, Section 2252(a)(1)

14 to be established, the government must prove all of the

15 following essential elements beyond a reasonable doubt.

16 That the defendant knowingly transported or shipped  
17 a visual depiction of a minor in interstate or foreign  
18 commerce, by any means, including by computer or through the  
19 United States mail.

20 That the production of such visual depiction  
21 involved the use of a minor engaging in sexually explicit  
22 conduct, as those terms are defined in Title 18, United States  
23 Code, Section 2256, and the defendant knew the visual depiction  
24 was of a minor.

25 That the visual depiction is of such conduct.

10

1 Do you understand the elements as to Count One?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, as to Count Two, in order for the  
4 crime of receipt of material depicting the sexual exploitation  
5 of a minor, in violation of Title 18, United States Code,  
6 Section 2252(a)(2) to be established, the government must prove  
7 all of the following essential elements beyond a reasonable  
8 doubt.

9 That the defendant knowingly received a visual  
10 depiction of a minor in interstate or foreign commerce, by any  
11 means, including by computer or through the United States mail.

12 That the production of such visual depiction  
13 involved the use of a minor engaging in sexually explicit  
14 conduct, as those terms are defined in Title 18, United States  
15 Code, Section 2256; and the defendant knew the visual depiction  
16 was of a minor.

17 That the visual depiction is of such conduct.

18 Do you understand the elements as to Count Two?

19 THE DEFENDANT: Yes.

20 THE COURT: As to Count Three, in order for the  
21 crime of possession of material depicting the sexual  
22 exploitation of a minor, in violation of Title 18, United  
23 States Code, Section 2252(a)(4)(B) to be established, the  
24 government must prove all of the following essential elements  
25 beyond a reasonable doubt.

1 That the defendant knowingly possessed one or more  
2 items, which contained a visual depiction of a minor engaging

3 in sexually explicit conduct.

4 That the item which contained the visual depiction  
5 had been mailed, transported or shipped in interstate commerce,  
6 or had been produced using materials which had been mailed or  
7 transported or shipped in interstate commerce.

8 That the production of the visual depiction involved  
9 the use of a minor engaging in sexually explicit conduct, as  
10 those terms are defined in Title 18, United States Code,  
11 Section 2256.

12 Do you understand the elements as to that count?

13 THE DEFENDANT: Yes.

14 MR. PATTON: Your Honor, to save some time on the  
15 penalties, Counts One and Two are identical.

16 THE COURT: I was just about to ask that. Do you  
17 understand that the maximum penalties as to Counts One and Two  
18 are as follows:

19 Imprisonment of not less than five years and not  
20 more than 20 years. But if the defendant has a prior  
21 conviction under Title 18, United States Code, Chapter 110,  
22 Chapter 71, Chapter 109A, Chapter 117 or under Section 920 of  
23 Title 10, or under the laws of any state relating to aggravated  
24 sexual abuse, sexual abuse, or abusive sexual conduct involving

25 a minor or ward, or the production, possession, receipt,

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1 mailing, sale, distribution, shipment or transportation of

2 child pornography, such person shall be fined under this title

3 and imprisoned not less than 15 years nor more than 40 years.

4 A fine of \$250,000.

5 A term of supervised release of up to life.

6 Any or all of the above.

7 As well as a mandatory special assessment of \$100.

8 In addition, restitution may be required in this

9 case as to Counts One, Two and Three, together with any other

10 authorized penalty.

11 Do you understand the maximum penalties then with

12 respect to Counts One and Two?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that the maximum

15 penalty as to Count Three is imprisonment of not more than 10

16 years; but if such person has a prior conviction under Title

17 18, et seq., or under the laws of any state relating to

18 aggravated sexual abuse, sexual abuse, or abusive sexual

19 conduct involving a minor or ward, or the production,  
20 possession, receipt, making, sale, distribution, shipment or  
21 transportation of child pornography, such person shall be fined  
22 under this title and imprisoned not less than 10 years nor more  
23 than 20 years.

24 A fine of \$250,000.

25 A term of supervised release of up to life.

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1 Any or all of the above.

2 A mandatory special assessment of \$100.

3 As well as the previously-discussed restitution,

4 together with any authorized penalty.

5 Do you understand the maximum penalties insofar as

6 Count Three is concerned?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, has anybody made any threat to you

9 or anyone else that has forced you in any way to plead guilty

10 today?

11 THE DEFENDANT: No.

12 THE COURT: Has there been a plea agreement, Mr.



13 Trabold?

14 MR. TRABOLD: No, your Honor.

15 THE COURT: Now, do you understand that the offense  
16 to which you are pleading guilty today is a felony offense;  
17 that if your plea is accepted, you will be adjudged guilty of  
18 that offense and that such adjudication may deprive you of  
19 valuable civil rights, such as the right to vote, hold public  
20 office, serve on a jury and the right to possess any type of  
21 firearm; do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Under the Sentencing Reform Act of 1984,  
24 the United States Sentencing Commission has issued guidelines  
25 for judges to follow in determining sentences in criminal cases

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1 for offenses occurring after November 1st of 1987. Have you  
2 and Mr. Patton talked about how the Sentencing Guidelines might  
3 apply to your case, and the fact that the guidelines are now  
4 advisory by virtue of recent Supreme Court decisions?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that I will not be

7 able to determine the advisory guideline sentence for your case  
8 until after the presentence report has been completed and you  
9 and the government have had an opportunity to challenge the  
10 facts reported by the probation officer?

11 THE DEFENDANT: Yes.

12 THE COURT: And do you understand that after it has  
13 been determined what guideline sentence applies to a case, the  
14 judge has the authority in some circumstances to impose a  
15 sentence that is more severe or less severe than that called  
16 for by the Sentencing Guidelines?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that parole has been  
19 abolished, and that if you are sentenced to a term of  
20 imprisonment, you will not be released on parole?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that if the sentence  
23 is more severe than you expected it to be, you will still be  
24 bound by your guilty plea and you will have no right to  
25 withdraw it?

1 THE DEFENDANT: Yes.

2 THE COURT: Except for your discussions with Mr.

3 Patton about the Sentencing Guidelines, has anybody made any

4 prediction or promise to you about what your sentence will be?

5 THE DEFENDANT: No.

6 THE COURT: Has anything I said here today suggested

7 to you what your actual sentence will be?

8 THE DEFENDANT: No.

9 THE COURT: Have you been instructed by your

10 counsel, by government counsel, or by anybody else to respond

11 untruthfully to any question about a promised sentence?

12 THE DEFENDANT: No.

13 THE COURT: Did you, as charged in Counts One, Two

14 and Three, and as previously reviewed with you by me, commit

15 the offenses as charged?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. Trabold, what would be the

18 government's proof here?

19 MR. TRABOLD: Your Honor, in 2004 the FBI, along

20 with other federal law enforcement agencies, began to receive

21 information that what is commonly referred to as peer-to-peer

22 software was being used to transmit and receive images of child  
23 pornography off of the Internet. Peer-to-peer software,  
24 essentially, is a file sharing system on the Internet where  
25 people can download images of child pornography and other

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1 things that are not illegal. Not essentially off of the  
2 Internet, but directly off of another user who has this  
3 peer-to-peer software hard drive. Instead of going on to a  
4 Web site on the Internet, peer-to-peer software allows you the  
5 ability to download images directly from another person that's  
6 on the network's hard drive. The reason people are interested  
7 in doing this is because the software allows you to download  
8 multiple images at the same time because it allows images to  
9 come from multiple different hard drives at the same time,  
10 essentially, speeding the ability of the person to download  
11 images onto their own hard drive.

12 Along these lines, on May 12th of 2004, FBI Special  
13 Agent Gruninger, who's a special agent in Las Vegas operating  
14 in an undercover capacity, entered the search term "pedo", in  
15 the hopes that he would receive information from people on this

16 peer-to-peer software connection, indicative of child  
17 pornography. He did in fact receive information, multiple hits  
18 on his search, under the search term "pedo."

19 Subsequent to that, FBI Special Agent Ma in Houston,  
20 Texas, on May 18, 2004, essentially did the exact same thing.  
21 After those two special agents did these search terms and  
22 received these peer-to-peer images onto their computer, they  
23 then run further software that allows them to pinpoint the  
24 Internet Protocol or IP address for every computer that sent  
25 images of child pornography to the undercover officers'

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1 computers. They then compile those Internet Protocol addresses  
2 and issue a grand jury or FBI administrative subpoenas to the  
3 Internet service providers to determine who these Internet  
4 Protocol addresses come back to.

5 The subpoenas resulted in the determination being  
6 made that this defendant was one of the people that sent to  
7 these FBI special agents images of child pornography across  
8 this peer-to-peer software connection.

9 Based on that, on August 6th of 2004, the FBI

10 executed a search warrant at Mr. Proctor's home and seized his  
11 computer. A forensic computer examination conducted by the  
12 Pennsylvania State Police reveals approximately 300 to 600  
13 images of child pornography. Which includes children engaged  
14 in the lascivious exhibition of their genitalia and/or multiple  
15 images of young to very young children actually engaged in  
16 sexual activity.

17       Beyond seizing Mr. Proctor's computer, the FBI  
18 seized a variety of different paperwork laying in the immediate  
19 proximity of his computer. This paperwork contained notations  
20 indicative of someone searching for this child pornography.  
21 There were various notes, including the following:  
22 www.boys-films.com., Gay-boys, hr-my boys, PTHC.BoyAction,  
23 erection-11.com. And then notes indicating preteen boys and  
24 pedo guy.

25       Beyond that, your Honor, a review of the images

1 themselves indicates at least one image that could be fairly  
2 characterized as sadomasochistic, in the sense it depicts a  
3 minor clearly under the age of 10 strapped to a metal bar in

4 the shape of a "T", where the minor's arms are strapped to the  
5 top of the bar, are tied to the top of the bar and her legs  
6 laid out somewhat in spread-eagle fashion, each leg is strapped  
7 at either end to another connecting bar.

8 Beyond that, the images, as I indicated, clearly  
9 depict images of children that are prepubescent. And all of  
10 the images, obviously, were transmitted in interstate commerce  
11 across this peer-to-peer relationship or via the Internet.

12 Finally, the forensic exam reveals that, as it  
13 relates to the transportation charge in the Indictment, that  
14 Mr. Proctor was engaging not only in this peer-to-peer  
15 relationship, but he was mailing images, he was e-mailing other  
16 people and attaching to those e-mails images of child  
17 pornography. And then getting back from those individuals, as  
18 evidenced by the fact that there were numerous child  
19 pornography images saved on his hard drive in the e-mail  
20 portion of his hard drive as incoming mail. He was e-mailing  
21 out child pornography and getting child pornography back via  
22 e-mails, as evidenced by the forensic exam. That would be the  
23 nature of the government's evidence.

24 THE COURT: All right. Mr. Proctor, you just heard  
25 what Mr. Trabold has said by way of a summary, do you agree

1 with everything he said?

2 MR. PATTON: Your Honor, I just wanted to put on the

3 record some qualifications -- some of the specific items that

4 Mr. Trabold just listed are issues that don't form the actual

5 elements of the offenses, are potential sentencing enhancements

6 under the Sentencing Guidelines. Specifically, as to the

7 number of images that were on the hard drive, that's not an

8 element of the offense. While it's likely that by the time of

9 sentencing we may be able to come to an agreement as to the

10 number of images, I don't believe it's necessary that Mr.

11 Proctor has to agree at this point in time with that. That,

12 also, I believe goes to whether or not any images are

13 prepubescent of minors. Whether any of the images are

14 sadomasochistic. As to distribution, as to whether or not that

15 distribution was made with the expectation of getting anything

16 in return, that will be a sentencing issue, but it's not

17 something that needs to be admitted to here to meet the

18 elements of the distribution offense. So with those

19 qualifications.



20 THE COURT: Let me hear it from him. Mr. Proctor,  
21 you just heard what your lawyer said. Aside from that  
22 information, which may be the subject at the sentencing  
23 hearing, do you agree with everything that Mr. Trabold said?

24 THE DEFENDANT: Can I ask my lawyer a question?

25 THE COURT: Sure.

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1 (Discussion held off the record between the  
2 Defendant and Defense Counsel.)

3 THE DEFENDANT: Yes, I agree.

4 THE COURT: All right. Do you still wish to plead  
5 guilty then, sir?

6 THE DEFENDANT: Yes.

7 THE COURT: Is it your advice he do so, Mr. Patton?

8 MR. PATTON: Yes, sir.

9 THE COURT: Because you knowledge that you are in  
10 fact guilty as charged in Counts One, Two and Three, because  
11 you know about your right to a trial, and because you know what  
12 the maximum possible penalties are and because you are  
13 voluntarily pleading guilty, I will accept your guilty plea and

14 enter a judgment of guilty on your plea to Counts One, Two and  
15 Three of Indictment No. 05-2 Erie.

16 It is therefore the finding of the court in the case  
17 of United States v. Keith Allen Proctor, that the defendant is  
18 fully competent and capable of entering an informed plea, and  
19 that his plea of guilty is a knowing and voluntary plea  
20 supported by an independent basis in fact containing each of  
21 the essential elements of the offense and that, therefore, the  
22 plea is accepted and the defendant is now adjudged guilty of  
23 the charges. Would you please have Mr. Proctor and his counsel  
24 sign the change of plea.

25 (Whereupon, the Change of Plea was executed by the

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1 Defendant and Defense Counsel.)

2 THE COURT: Now, a presentence report is going to be  
3 prepared by the probation officer, and it is in your best  
4 interests to cooperate with the probation officer in furnishing  
5 information for that report, because that report is going to be  
6 important in my decision about what your sentence will be. You  
7 and your counsel will have a right and will have an opportunity

8 to examine the report before sentencing.

9 The disposition of sentencing in this case is set  
10 for June 13th at 10 a.m. All right.

11 MR. TRABOLD: Can I just raise an issue. Mr.  
12 Proctor is out on bond with the general conditions that he not  
13 engage in Internet activity or use a computer, have contact  
14 with minors. I'm not asking that you detain him, but I am  
15 asking that you impose some more stringent bond restrictions on  
16 him now because he's entered a guilty plea to obviously three  
17 felonies.

18 THE COURT: What is the government requesting?

19 MR. TRABOLD: I'm requesting you place him on home  
20 detention with electronic monitoring. I don't know if that can  
21 be done by Pretrial Services, but that is our request.

22 THE COURT: Just home detention?

23 MR. TRABOLD: With the electronic monitor.

24 MR. PATTON: Your Honor, Mr. Proctor has been on  
25 bond since January of 2005, without there being any indications

1 from Pretrial Services that there's been any problem at all.

2 Mr. Proctor's children have been taken out of his home by the  
3 Office of Children and Youth. Actually, his parental rights  
4 have been terminated.

5 THE COURT: Is he working?

6 MR. PATTON: He is not. His medical conditions  
7 severely limit the work that he can do. I would just submit, I  
8 understand he pled guilty, he's known that this has been coming  
9 and he hasn't engaged in any type of inappropriate behavior.

10 THE COURT: You're concerned about flight?

11 MR. TRABOLD: Your Honor, the posture of pretrial  
12 release is that you are dealing with an individual that's  
13 presumed innocent. And now we're not dealing with an  
14 individual that's presumed innocent, we're dealing with an  
15 individual that has now pled guilty to what would amount to be  
16 three crimes against children. And it certainly, to my mind,  
17 brings up some greater concerns with regard to the issue of  
18 flight. In essence, now that you're talking about a person  
19 that is not presumed innocent and has pled guilty and is  
20 obviously now awaiting sentencing, which is a completely  
21 different posture than when you're just out on bond and your  
22 case hasn't been resolved.

23 MR. PATTON: Your Honor, Mr. Proctor does drive his  
24 wife to work and back daily. She does not drive, so he drives  
25 her back and forth. So even if you were contemplating home

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1 detention --

2 THE COURT: As with any home detention, you usually  
3 go to work, do certain things. What would you be  
4 contemplating, things along those lines?

5 MR. TRABOLD: The ordinary and reasonable exceptions  
6 as they relate to home detention and electronic monitoring, I  
7 don't have an objection to. My concern is, other than the  
8 general prohibitions to stay away from minors, stay off the  
9 Internet, there really isn't all that much supervision of this  
10 defendant, which is of great concern to me. Especially now in  
11 light of what he just pled guilty to.

12 THE COURT: Let me ask you, can you do that?

13 PRETRIAL SERVICES OFFICER: That wouldn't be  
14 impossible to do. We would have to contact officers in the  
15 Pittsburgh office to set up the home confinement with  
16 electronic monitoring.

17 THE COURT: I would be inclined to do that with the

18 proviso that he's not locked down in his house. I assume

19 Pretrial Services or somebody has a list of acceptable reasons,

20 for work, and this instance taking this lady to work and other

21 typical terms and conditions?

22 PRETRIAL SERVICES OFFICER: Yes, the officers who

23 are responsible for his case, they would give him a window of

24 time to do whatever he needs to do.

25 THE COURT: Then it could be requested on an item by

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1 item basis?

2 PRETRIAL SERVICES OFFICER: Yes, as the

3 circumstances require.

4 THE COURT: Did you want to say something?

5 MR. PATTON: Your Honor, if you're inclined to do

6 that, generally, there's three levels of confinement. One is

7 just a curfew. Intermediate is home detention, which allows

8 the person to leave for work, medical appointments, church and

9 other pre-approved activities. Then there's a home

10 incarceration, which is extremely limited, that basically is

11 only like doctor's appointments --

12 THE COURT: Funerals?

13 MR. PATTON: Right.

14 MR. PATTON: The home incarceration is extremely

15 limited. So I know Pretrial Services distinguishes --

16 THE COURT: He was talking about home confinement --

17 MR. PATTON: The intermediate.

18 MR. TRABOLD: That's acceptable to the government.

19 THE COURT: With electronic monitoring. All right,

20 we're in recess.

21

22 (Whereupon, at 11:29 a.m., the Change of Plea

23 proceedings were concluded.)

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1 C E R T I F I C A T E

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5 I, Ronald J. Bench, certify that the foregoing is a  
6 correct transcript from the record of proceedings in the  
7 above-entitled matter.

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